

**United States Bankruptcy Court
Northern District of Illinois
Eastern Division**

In Re: Keith Barnes Jr)	Case # 16-05593
)	Judge Schmetterer
Debtor)	Chapter 13
)	
)	
Keith Barnes Jr)	
Plaintiff,)	
v.)	ADV. No. 16 AP 00301
Carrington Mortgage Services Inc)	
Defendant		

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Findings of Fact:

A. The Parties

1. The Plaintiff is Keith Barnes Jr ("Plaintiff").
2. The Defendant is Carrington Mortgage Services Inc ("Defendant").

B. Factual Background

1. On February 22, 2016, Plaintiff filed a petition for relief under Chapter 13 of the Bankruptcy Code.
2. Plaintiff owns the real estate commonly known as 4042 Violet Ln, Matteson, IL 60443.
3. That Specialized Loan Servicing LLC holds a first mortgage lien on the real property commonly known as 4042 Violet Ln, Matteson, IL 60443, with a secured value of \$376,125.12 pursuant to Specialized Loan Servicing LLC's proof of claim, Claim #9.
4. The Defendant holds a second mortgage lien on the real property commonly known as 4042 Violet Ln, Matteson, IL 60443 in the amount of \$86,031.42 pursuant to Defendant's proof of claim, Claim #7.

5. That the Plaintiff obtained from Specialized Loan Servicing LLC a brokers price opinion on the property on March 16, 2016 indicating the value of 4042 Violet Ln, Matteson, IL 60443 as \$165,000.00.
6. The first mortgage lien of Specialized Loan Servicing LLC is a secured claim based on the mortgage recorded on July 5, 2006 as document number 0618647016 with the Cook County Recorder of Deeds, Illinois. *The balance due is over \$240,000*
7. The second mortgage lien of Carrington Mortgage Services LLC is a secured claim based on the mortgage recorded July 5, 2006 as document number 0618647017 with the Cook County Recorder of Deeds, Illinois.
8. The current Chapter 13 Plan provides the Plaintiff will make monthly payments to the Chapter 13 Trustee in the amount of \$420.00 per month for 3 months, then \$525.00 per month for 57 months.
9. Under the Plan, general unsecured creditors will be paid a dividend of ten percent (10%) of their allowed claims.
10. On May 12, 2016, Plaintiff filed a complaint and caused a summons to be issued pursuant to 11 U.S.C. § 506(a) and Bankruptcy Rule 3012 to determine the validity of Defendant's lien on Plaintiff's property located at 4042 Violet Ln, Matteson, IL 60443.
11. On May 12, 2016, a copy of the summons and complaint was served in accordance with Rule 7004 of the Federal Rules of Bankruptcy Procedure by Regular US Mail, postage prepaid to an officer of the Defendant at 1600 Douglass Rd, Ste 110, Anaheim, CA 92806, and upon the registered agent, CT Corporation System at 208 S LaSalle St, Ste 814, Chicago, IL 60604.
12. The summons indicated that a motion or answer was required within 30 days of issuance; to date, no responsive pleading has been filed.

13. No evidence has been presented to challenge the validity of the secured claim that holds priority over the second mortgage lien.
14. No evidence has been presented to challenge the appraised value of \$165,000.00.
15. The first secured claim of Specialized Loan Servicing LLC in the amount of \$376,125.12 exhausts the value and equity in Plaintiff's residence.
16. There is no value or equity to support the claim of the Defendant.

CONCLUSIONS OF LAW

A. Jurisdiction

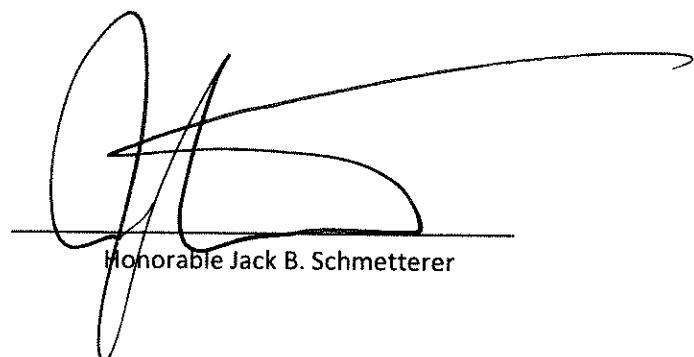
1. This contested matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(K). This court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157(a) and 1334(b).
2. Venue is proper in this district pursuant to 28 U.S.C. § 1409.

B. Argument

1. This action was initiated under 11 U.S.C. § 506(a) and F.R.Bankr.P. 3012.
2. Proofs of claim were filed listing the secured claim of Specialized Loan Servicing LLC in the amount of \$376,125.12, and the secured claim of Carrington Mortgage Services LLC in the amount of \$86,031.42.
3. The value of Plaintiff's residence is \$165,000.00.
4. As there is no value or equity to support the second priority lien of Carrington Mortgage Services LLC, the claim is not a claim secured at all by a security interest in the Debtor's residence, as the term is used in § 1322(b) of the Bankruptcy Code. The Chapter 13 Plan may value the collateral under F.R.Bankr.P. 3012, and determine the respective rights of secured creditors through the language used therein, contingent on confirmation thereof, completion of the Plan by the Debtor, and entry of the discharge. *In re Meyer*, 2009 B 20268, Docket Entry 69 (Bankr.N.D.Ill. January 29, 2010).

Ordered:

Dated: 7/21/16



Honorable Jack B. Schmetterer

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